

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CASE NO. DNCW 3:10CR102
)
)(Financial Litigation
)Unit)
JERRY W. HOLMES,)
)
and)
)
IBM PERSONAL PENSION PLAN,)
)
 Garnishee.)

WRIT OF CONTINUING GARNISHMENT

TO: IBM Personal Pension Plan
International Business Machines Corp.
New Orchard Road - M/D 327
Armonk, NY 10504
Attn: Plan Administrator Martin Bagno

An Application for a Writ of Garnishment against the property of Jerry Wayne Holmes, Defendant/debtor, has been filed with this Court, (Docket No. 57). A judgment has been entered against the Defendant/debtor, (Docket No. 48). The balance of \$2,564,650.31, computed through August 22, 2011, is due and owing.

You, as Garnishee, are required by law to answer in writing, under oath, within ten (10) days, of service of this Writ, whether or not you have in your custody, control or possession, any property or funds owned by the Defendant/debtor, including non-exempt, disposable earnings.

You must withhold and retain any property in which the Defendant/debtor has a substantial non-exempt interest and for

which you are or may become indebted to the Defendant/debtor pending further order of the Court. This means that you should withhold 25% of the Defendant/debtor's earnings which remain after all deductions required by law have been withheld and 100% of all 1099 payments. See 15 U.S.C. § 1673(a).

Please state whether or not you anticipate paying the Defendant/debtor any future payments and whether such payments are weekly, bi-weekly, monthly, annually or bi-annually.

You must **file the original written Answer** to this Writ within ten (10) days of your receipt of this Writ with the following office:

**Clerk of the United States District Court
401 West Trade Street
Charlotte, NC 28202**

Additionally, you are required by law to **serve a copy of the Answer** upon the Defendant/debtor at his last known address:

Jerry W. Holmes
XXXXXXXXXXXXXXXXXXXX
Matthews, NC 28104

You are also required to **serve a copy of the Answer** upon the Plaintiff at the following address:

Jennifer A. Youngs, Assistant United States Attorney
United States Attorney's Office
Financial Litigation Unit
227 West Trade Street, Suite 1650
Charlotte, NC 28202

Under the law, there is property which is exempt from this Writ of Garnishment. Property which is exempt and which is not

subject to this Order may be listed on the attached Claim for Exemption form.

Pursuant to 15 U.S.C. §1674, you, the Garnishee, are prohibited from discharging the Defendant/debtor from employment by reason of the fact that his earnings have been subject to garnishment for any one indebtedness.

Pursuant to 28 U.S.C. § 3205(c)(6), if you **fail to answer this Writ or withhold property or funds** in accordance with this Writ, the United States of America may petition the Court for an order requiring you to appear before the Court to answer the Writ and to withhold property before the appearance date. If you fail to appear or do appear and fail to show good cause why you failed to comply with this Writ, the Court shall enter a judgment against you for the value of the Defendant/debtor's non-exempt interest in such property. The Court may award a reasonable attorney's fee to the United States and against you if the Writ is not answered within the time specified. It is unlawful to pay or deliver to the Defendant/debtor any item attached by this Writ.

SO ORDERED.

Signed: August 22, 2011



David S. Cayer
United States Magistrate Judge

